

REMARKS

Claims 58, 60-65, 68, 71-77 and 80-81 are currently pending in the present application.

Claims 58 and 77 have been amended to more particularly point out and distinctly claim Applicant's invention wherein the oil is natural, the lipophilic emulsifier is cationic, the hydrophilic emulsifier comprises an ethoxylated fatty alcohol, and the emulsifier system has a water content of 40 to 90 wt.%. Additionally, claim 58 has been amended to indicate that the contacting of the fabric with the microemulsion occurs during a rinse cycle. Claims 59, 66-67, 69-70 and 78-79 have been canceled without prejudice in conjunction with the amendments to claims 58 and 77. Claim 68 has been amended to depend from pending claim 58 rather than canceled claim 67. Claims 1-57 were previously canceled in Applicant's Preliminary Amendment filed on August 14, 2006.

Support for the amendments to the claims made herein can be found throughout the Specification, for example, at paragraphs [0006], [0014], [0037] through [0038], [0042], [0044] through [0047], and [0070] through [0071] (all paragraph references to the published version of the application), and in the original claims. No new matter is introduced by the amendments made herein, and no additional claims fees are necessitated by the amendments made herein. A complete listing of all claims ever presented in accordance with 37 C.F.R. §1.121 (c)(1) is set forth herein. Thus, entry of the amendments made herein is proper and respectfully requested.

Rejections Under 35 U.S.C. §103(a):

In the Office Action, the Examiner rejects claims 58-81 under 35 U.S.C. §103(a), as being unpatentable over U.S. Pat. No. 4,559,169 of Wevers, *et al.* (hereinafter referred to as "Wevers"), in view of U.S. Patent Application Publication No. 2004/0117919 A1 of Conrad, *et al.* (hereinafter referred to as "Conrad"). Applicant respectfully traverses the Examiner's

rejections and the arguments and contentions set forth in support thereof for at least the following reasons.

To begin with, as amended herein, one embodiment of Applicant's claimed invention (*e.g.*, as set forth in claim 58) is directed to methods which comprise *treating a fabric* with a microemulsion *during a rinse cycle* in an automatic washing machine, wherein the microemulsion comprises *a natural oil*, and an emulsifier system comprising *an ethoxylated fatty alcohol* hydrophilic emulsifier, *a lipophilic cationic emulsifier*, and *40 to 90 wt.% water*.

Another embodiment of Applicant's claimed invention, as amended herein (*e.g.*, as set forth in claim 77), is directed to microemulsions which comprises *a natural oil*, an antioxidant, and an emulsifier system comprising *an ethoxylated fatty alcohol* hydrophilic emulsifier, *a lipophilic cationic emulsifier*, and *40 to 90 wt.% water*, where the microemulsion has a droplet size  $d_{50}$  less than 500nm.

It is well-settled that in order to establish a *prima facie* case of obviousness, the references MUST teach or suggest each and every element of the claimed invention; there MUST be some reason provided by the Examiner, either based on the references or found in the knowledge generally available to one of ordinary skill in the art, to combine and modify the references' teachings in order to arrive at the claimed invention; and there must be a reasonable expectation of success in doing so. (*See*, M.P.E.P. §2142, 8<sup>th</sup> Ed., Rev. 5 (August 2006); KSR Int'l. Co. v. Teleflex Inc., No. 04-1350 (U.S. Sup. Ct., April 30, 2007)).

As explained in detail below, the cited combination of Wevers and Conrad fails to teach or suggest each and every element of the claimed inventions, there is nothing which would motivate one of ordinary skill in the art to combine and modify the references in order to arrive at the claimed invention, and nothing to provide the requisite reasonable expectation of success. Moreover, Conrad is not analogous to Wevers or Applicant's invention, and thus, the references are improperly combined and Conrad is improperly applied to Applicant's claimed invention.

*Applicant's Claimed Methods:*

With respect to Applicant's claimed methods, the Examiner contends that the only aspect of the claimed invention not disclosed in Wevers is the use of an automatic washing machine in a method employing the claimed microemulsion. Applicant respectfully disagrees.

Applicant submits that Wevers fails to teach or suggest each and every element of the claimed methods, and further submits that Conrad fails to remedy the deficiencies of Wevers. Moreover, the Examiner has not articulated a reason found in either the prior art or other general knowledge available to those skilled in the art which would motivate one to combine and modify the cited references as necessary to arrive at Applicant's claimed invention. Finally, nothing in the cited references would provide one of ordinary skill in the art with a reasonable expectation of successfully achieving Applicant's claimed invention.

Contrary to the Examiner's contentions set forth in the Office Action, Wevers does not teach or suggest the use of a microemulsion as recited in Applicant's claimed invention. First, Wevers contains no teaching or suggestion to specifically combine a natural oil and an emulsifier system to provide a microemulsion, where the emulsifier system comprises a lipophilic cationic emulsifier, an ethoxylated fatty alcohol and 40 to 90 wt.% water. The sole reference to a microemulsion in Wevers is in Example XV. The microemulsion disclosed in Example XV does not teach or suggest the microemulsion recited in the claimed invention. The Wevers microemulsion contains less than 30 wt. % of water, does not contain a cationic emulsifier (let alone a lipophilic cationic emulsifier), and also does not contain a natural oil. Thus, even if one of ordinary skill in the art were somehow inclined to apply the singular reference to a microemulsion in Example XV of Wevers to the remainder of the reference's disclosure, there is no suggestion to specifically combine a lipophilic cationic emulsifier, an ethoxylated fatty alcohol and a natural oil to provide a microemulsion.

Moreover, even if one of ordinary skill in the art were somehow motivated to use a formulation of Wevers in an automatic washing machine of Conrad, which Applicant does not concede as explained further below, Wevers does not teach or suggest the use of the formulations

disclosed therein as rinse agents (*i.e.*, for use during a rinse cycle). As clearly indicated in Wevers (*see, e.g.*, the Abstract; col. 1, lns. 63-64; col. 2, lns. 11-15; and the Examples), the formulations disclosed therein are detergents containing substantial amounts of surfactant for use in washing fabrics. More specifically, the microemulsion of Example XV is directed to a liquid laundry detergent for grease removal (*see*, col. 22, lns. 28-30). Accordingly, even if one of ordinary skill in the art somehow arrived at Applicant's claimed microemulsion from the disclosure of Wevers, and was somehow further motivated to use such a combination in an automatic washing machine, there is nothing in the references to suggest or motivate the use of such a formulation *during the rinse cycle*. Quite the opposite, one of ordinary skill in the art would understand that detergents are to be used during a wash cycle.

Given the specific teaching of a surfactant required in the detergent formulations of Wevers, one of ordinary skill in the art would not be provided with a reasonable expectation of successfully employing such formulations to rinse fabrics.

Furthermore, as mentioned above, Applicant respectfully submits that one of ordinary skill in the art would not be motivated to use a formulation of Wevers in the automatic washing machine of Conrad. Contrary to the Examiner's contention, Conrad is not analogous to Wevers. Conrad is specifically directed to a *non-aqueous* washing machines and methods (*see, e.g.*, Title and Abstract). More specifically, Conrad is directed to the use of non-aqueous washing of fabrics with working fluids containing fluorine-compounds. (*See*, ¶¶ [0127] - [0130]). Applicant's invention is directed to use in aqueous washing machines, and addresses the problem of rinsing microemulsions out of the dispensing draw of a normal commercial automatic washing machine. Those of ordinary skill in the art would recognize that the non-aqueous cleaning machines and methods of Conrad are inapplicable to ordinary water-based fabric washing. Thus, while both Wevers and Conrad are concerned with the treatment of fabrics, it is submitted that the two are not in "the same field of endeavor," as non-aqueous fabric cleaning (*i.e.*, dry-cleaning) is not the same as aqueous laundering. Nor are the two references concerned with the same problem as Applicant, namely rinse treatment. Therefore, Conrad is

not analogous to Wevers, and the two references are not properly combined to support a 35 U.S.C. §103(a) rejection. *See*, M.P.E.P. §2141.01(a). Moreover, Conrad is non-analogous to Applicant's claimed invention and is improperly applied thereto.

Accordingly, reconsideration and withdrawal of the rejection with respect to claims 58, 60-65, 68, and 71-76 are respectfully requested.

*Applicant's Claimed Microemulsions:*

With respect to Applicant's claimed microemulsions, the Examiner contends that the only aspect of the claimed invention not disclosed in Wevers is the inclusion of an antioxidant. The Examiner contends that Conrad discloses a microemulsion containing an antioxidant. Applicant respectfully disagrees.

As discussed extensively above, Wevers fails to teach or suggest the claimed microemulsion. Wevers contains no teaching or suggestion of the specific combination of a lipophilic cationic emulsifier and an ethoxylated fatty alcohol with 40 to 90 wt.% water as an emulsifier system for a natural oil. There is nothing in the reference that would motivate one of ordinary skill to make the claimed combination.

Moreover, even if one of ordinary skill in the art were to somehow arrive at the specific combination from the disclosure of Wevers, there would be no reason for one of ordinary skill in the art to look to Conrad for the inclusion of any component. As discussed above, Conrad is directed to non-aqueous washing with fluorine-containing fluids. One of ordinary skill in the art would not be motivated to look to a non-aqueous washing reference for the development of aqueous treatment formulations.

Finally, the Examiner has contended that Wevers discloses a microemulsion with a droplet size of 5 to 100 nm. Applicant respectfully submits that Wevers contains no such disclosure. Wevers makes a single reference to "a microemulsion." As the Examiner points out, one accepted definition of a microemulsion is an emulsion having a droplet size less than 100 nm. Thus, the Examiner has extrapolated the mention of "a microemulsion" in Wevers to mean

that the reference teaches an emulsion having a droplet size less than 100 nm. However, even if such an extrapolation were supported, this is not the same as a teaching or suggestion of Applicant's claimed microemulsion which has *a droplet size  $d_{50}$  of less than 500 nm*. As explained in Applicant's Specification (*see*, ¶[0006]), " $d_{50}$ " refers to a droplet size distribution by weight. In other words, even if the "microemulsion" disclosed in Wevers has a droplet with a diameter less than 100 nm, this does not mean that the microemulsion mentioned therein necessarily has a  $d_{50}$  droplet size as claimed. In fact, if the droplets of the Wevers "microemulsion" have a diameter under 100 nm, they cannot have a  $d_{50}$  droplet size of 100 nm, because a  $d_{50}=100\text{nm}$  means that 50% by weight of the droplets are larger and 50% by weight are smaller than 100 nm. Stated another way, the mere mention of "a microemulsion" in Wevers teaches or suggests nothing specific about the droplet size distribution as claimed.

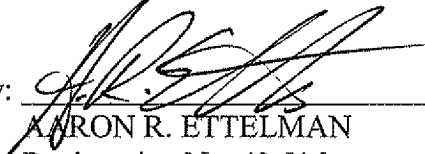
Accordingly, reconsideration and withdrawal of the rejection with respect to claims 77 and 80-81 are respectfully requested

Conclusion:

In view of the amendments made herein and the remarks set forth above, Applicants submit that all pending claims patentably distinguish over the prior art of record. Reconsideration, withdrawal of all rejections, and a Notice of Allowance are therefore respectfully requested.

Respectfully submitted,

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